

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4 and 2009 Iowa Acts, House File 811, section 33, the Department of Human Services amends Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments:

- Implement a Medicaid nursing facility "pay for performance" program in place of the nursing facility accountability measures.
- Make technical changes to reflect the current organizational structure and processes of the Iowa Medicaid Enterprise, including the elimination of the reconsideration of a level-of-care determination before the determination can be appealed.

In accordance with legislative direction in 2008 Iowa Acts, chapter 1187, section 33, the Department convened a workgroup to develop recommendations to redesign the nursing facility accountability measures program. The legislation required the workgroup to submit its recommendations for the redesign. As a result of the workgroup recommendations, 2009 Iowa Acts, House File 811, section 33, directs the Department to implement changes to the accountability measures program and the nursing facility reimbursement methodology effective July 1, 2009.

New benchmarks have been developed in four domains: quality of life, quality of care, access, and efficiency. Possible scores in each domain are: quality of life, 25 points; quality of care, 59 points; access, 8 points; and efficiency, 8 points, for a potential total of 100 points. A facility must receive at least 51 points to qualify for any additional reimbursement. Add-on payments are graduated depending on the facility's performance score as follows:

- A score of 51-60 points qualifies for an add-on of 1 percent of the direct care plus nondirect care cost component patient-day-weighted medians.
- A score of 61-70 points qualifies for an add-on of 2 percent of the direct care plus nondirect care cost component patient-day-weighted medians.
- A score of 71-80 points qualifies for an add-on of 3 percent of the direct care plus nondirect care cost component patient-day-weighted medians.
- A score of 81-90 points qualifies for an add-on of 4 percent of the direct care plus nondirect care cost component patient-day-weighted medians.
- A score of 91-100 points qualifies for an add-on of 5 percent of the direct care plus nondirect care cost component patient-day-weighted medians.

A facility will forfeit all eligibility for pay-for-performance payments if during the payment period the nursing facility is cited for a deficiency rated at a severity level of H or higher by the Department of Inspections and Appeals. A facility's payment add-on shall be reduced by 25 percent for each citation received during the year for a deficiency rated at a severity level of G and shall be eliminated if the facility fails to cure the deficiency within the time allowed by the Department of Inspections and Appeals. No add-on shall be paid for any month when the Centers for Medicare and Medicaid Services has suspended the facility's admissions.

Facilities shall be required to post their results on the performance measures and the amount of add-on payments they receive. Facilities are required to use these payments to support direct care staff through increased wages, enhanced benefits, and expanded training opportunities and to publish an accounting of how they used the funds.

These amendments do not provide for waivers in specified situations because the Department holds that all nursing facilities should be subject to the same pay-for-performance measures and scoring to determine add-on payments as a matter of fairness.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on October 21, 2009, as **ARC 8246B**. The Department received comments on the Notice of Intended Action from five persons.

In response to these comments, the Department has made the following changes to subparagraph 81.6(16)“g”(5) as published under Notice of Intended Action:

- Revised the standard “Consistent Staffing” to read as follows: “The facility has all direct care staff members caring for the same residents at least 70% of their shifts.”
- Eliminated the standard “Resident Advocate Committees,” since these committees are no longer supported by the Department on Aging due to reduced appropriations.
- Changed the point value of the standard “Long-Term Care Ombudsman” as follows: “5 points if resolution 70 to 74%; 7 points if resolution 75% or greater” to make up the points eliminated with resident advocate committees.

The Council on Human Services adopted these amendments on December 9, 2009.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of these amendments should be waived, as authorized by 2009 Iowa Acts, House File 811, section 33(4)“f.”

These amendments are intended to implement Iowa Code section 249A.4 and 2009 Iowa Acts, House File 811, section 33.

These amendments became effective on December 11, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 81] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8246B**, IAB 10/21/09.

[Filed Emergency After Notice 12/11/09, effective 12/11/09]

[Published 1/13/10]

[For replacement pages for IAC, see IAC Supplement 1/13/10.]